

**SEMINOLE COUNTY GOVERNMENT
AGENDA MEMORANDUM**

SUBJECT: Sale of Heart to Heart facility (a/k/a Lisa Merlin House) to the Center for Drug-Free Living

DEPARTMENT: Community Services

DIVISION: Community Assistance

AUTHORIZED BY: Michele Saunders

CONTACT: Buddy Balagia

EXT: 2389

MOTION/RECOMMENDATION:

Approve and authorize Chairman to sign and execute the Agreement for Assumption of Mortgage and the Second Amendment to Agreement, to allow the conveyance of the former Lisa Merlin House to the Center for Drug Free Living, Inc.

District 4 Carlton D. Henley

Buddy Balagia

BACKGROUND:

In 2006 the Board of County Commissioners (Board) provided HOME and SHIP funding to construct a residential facility in Casselberry to house and treat chemically-dependent women with children, then known as the Lisa Merlin House. Now named (and managed by) Heart to Heart: A Community Care Home, Inc., Heart to Heart desires to sell the facility to the Center for Drug Free Living, Inc, based in Orlando.

The facility will retain its original purpose, as required by the HOME Program. The conveyance of the property requires:

- Amending the original tri-party agreement between the County, Heart to Heart, and the Center for Affordable Housing, which was the original developer.
- Executing an Agreement for Assumption of Mortgage, allowing the title transfer.

The two documents are attached for the Board's execution. Once these documents are executed, a Warranty Deed will be executed to convey ownership to the Center for Drug Free Living. Community Assistance staff will continue to monitor the facility through June, 2026.

STAFF RECOMMENDATION:

Approve and authorize Chairman to sign and execute the Agreement for Assumption of Mortgage and the Second Amendment to Agreement, to allow the conveyance of the former Lisa Merlin House to the Center for Drug Free Living, Inc.

ATTACHMENTS:

1. Agreement
2. Agreement

Additionally Reviewed By:

- ☒ County Attorney Review (Arnold Schneider)
- ☒ Grant Review (Jennifer Bero, Lisa Spriggs)

**SECOND AMENDMENT TO AGREEMENT
SHIP/HOME PROGRAM COMMUNITY HOUSING DEVELOPMENT ORGANIZATION
SUBRECIPIENT AGREEMENT AMONG SEMINOLE COUNTY, THE CENTER FOR
AFFORDABLE HOUSING, INC. AND LISA MERLIN HOUSE, INC.
FOR PROGRAM YEARS 2001-2002, 2003-2004 AND 2004-2005**

THIS SECOND AMENDMENT TO AGREEMENT, entered into this ____ day of _____, 2008, by and among **SEMINOLE COUNTY**, a political subdivision of the State of Florida, whose address is 1101 East First Street, Sanford, Florida 32771, hereinafter referred to as "COUNTY", **THE CENTER FOR AFFORDABLE HOUSING, INC.**, a non-profit Florida corporation, whose mailing address is 2524 South Park Drive, Sanford, Florida 32773, hereinafter referred to as "CENTER", **HEART TO HEART: A COMMUNITY CARE HOME, INC.**, f/k/a Lisa Merlin House, Inc. or "MERLIN", a non-profit Florida corporation, whose address is 96 Plumosa Avenue, Casselberry, Florida 32707, hereinafter referred to as "HEART", and **THE CENTER FOR DRUG FREE LIVING, INC.**, a Florida non-profit corporation, whose address is 3670 Maguire Boulevard, Orlando, Orlando, Florida 32803, hereinafter called "CFDFL".

W I T N E S S E T H:

WHEREAS, COUNTY, CENTER AND HEART entered into that certain SHIP/HOME Program Community Housing Development Organization Subrecipient Agreement Among Seminole County, The Center for Affordable Housing, Inc. and Lisa Merlin House, Inc. for Program Years 2001-2002, 2003-2004 and 2004-2005 and exhibits thereto, dated May 12, 2005 and recorded in Official Records Book 5734, Pages 1442 through 1488, inclusive, Public Records of Seminole County, Florida as amended by that

First Amendment to said Agreement dated June 28, 2006 (collectively hereinafter referred to as the "Agreement"); and

WHEREAS, the parties hereto have determined that an assignment of HEART's duties and responsibilities under the Agreement to CFDFL, and CFDFL's assumption thereof, represents the best option for the continued use of the Project at its full potential for achieving the Affordable Housing Purposes; and

WHEREAS, COUNTY has contemporaneously herewith given its approval for CFDFL's assumption of the Mortgage securing the Project and desires to evidence its approval of the assignment and assumption of the Agreement by CFDFL in accordance with section 15 thereof; and

WHEREAS, the parties agree that CENTER has heretofore completed its responsibilities as Project Developer under the Agreement; does not participate in the ongoing management and operations of the facilities comprising the completed Project and no longer needs to be a party to the Agreement; and

WHEREAS, COUNTY, after consideration of other potential service providers, finds and determines that CFDFL possesses the best combination of professional services personnel, financial and other resources to continue meeting the Affordable Housing Purposes of the Project; and

WHEREAS, section 26 of the Agreement requires that any changes to the material terms thereof requires a formal, written amendment, executed by the parties,

NOW, THEREFORE, in consideration of the mutual covenants, promises and representations contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

Section 1. Recitals. The above recitals are true and form a material part of this Second Amendment to the Agreement upon which the parties have relied.

Section 2. Assignment/Assumption of Agreement and Substitution of Parties. HEART and CENTER hereby assign to CFDFL all of their rights, duties and obligations under the Agreement. CFDFL hereby accepts and assumes responsibility for performance of each and all of the terms of the Agreement, the several Exhibits thereto as they have been amended from time to time and subjects itself as the party against whom enforcement of any and all of the covenants thereof may be brought by interested persons. Accordingly, CFDFL shall be substituted for MERLIN and CENTER as a party to the Agreement and in every reference thereto in the Agreement. CFDFL expressly and without reservation or qualification affirms that it will indemnify and hold harmless the COUNTY in accordance with section 13 of the Agreement.

Section 3. Termination of The Center for Affordable Housing, Inc. as a Party To The Agreement. The parties agree that CENTER has satisfactorily performed those enumerated services in the Agreement related to Project Development to the point of the Project's commencement of operations. The parties further agree that by virtue of CENTER's earlier conveyance of the completed Project to HEART, that

CENTER has no further responsibilities for the development, start-up, operation, management or funding of the Project. Accordingly, the parties agree that upon complete execution of this Second Amendment, CENTER shall no longer be a party to the Agreement and shall be released from any continuing responsibilities for performance and any rights or privileges it enjoyed under the Agreement, it being expressly understood that all of such rights, privileges and responsibilities shall inure to CFDFL.

Section 4. COUNTY Approval of Assignment and Assumption of Agreement and Substitution of Party. Pursuant to section 15 of the Agreement, COUNTY hereby approves, ratifies and confirms the release of CENTER as a party to this Agreement and the substitution of CFDFL in place of HEART and CENTER as the party to whom COUNTY can expect full performance of the Agreement. Accordingly, COUNTY agrees to HEART's assignment to and assumption by CFDFL of the Agreement including all Exhibits thereto.


Section 5. Adherence to Agreement Restrictive Use Covenant. CFDFL states that its officers and directors have read and understand the Agreement and the Amended Restrictive Use Covenant relating to the Project which is recorded in Official Records Book 6402, Pages 0348 through 0350, inclusive, of the Public Records of Seminole County, Florida; that it expressly agrees to each and every performance covenant thereof and that it shall have full responsibility and liability for strict compliance with the terms thereof.

Section 6. Amendments to Sections 2(c) and (e) of the Agreement.

The definitions contained in sections 2(c) and (e) of the Agreement are hereby amended to better reflect the COUNTY's current organizational structure and shall henceforth read as follows:

(c) ~~"CD Administrator" means the Community Resources Division Manager or their designee~~ "CS Administrator" means the COUNTY's Community Services Director, the Community Assistance Division Manager or his/her designee.

(e) "County Approval" means written approval by the Community Services Director, the Community Assistance Division Manager or ~~their designee~~ the Board of County Commissioners as may be required.

Section 7. Amendment to Section 23 of the Agreement. By virtue of the substitution of parties to ~~this~~ Agreement, section 23 "Notice" is hereby amended to read as follows: 

Section 23. Notice. Whenever either party desires to give notice unto the other, notice may be sent to:

For COUNTY:

~~CD Administrator
1101 E. First Street
Sanford, FL 32771~~

CS Administrator
Community Services Department
534 W. Lake Mary Boulevard
Sanford, Florida 32773

For CENTER:

~~Director
The Center for Affordable Housing
2524 S. Park Drive
Sanford, FL 32773~~

~~For MERLIN:~~

~~Lisa Morlin, Registered Agent
3101 North Pine Hills Road
Orlando, FL 32808~~

For CFDFL:

President/Director
The Center For Drug Free Living, Inc.
P.O. Box 538350
Orlando, FL 32853

The parties may change, by written notice to the other party, the address or person for receipt of notice without the need for formal amendment to this Agreement. Such notice shall be sent by first class United States Mail and shall be deemed received and effective on the third business day after mailing. Copies of such notice shall be attached to each party's copy of the Agreement upon receipt.

Section 8. Addition of new  Section 29 to the Agreement. There is hereby added a new section 29 to the Agreement as follows:

Section 29. Equal Opportunity Employment. CFDFL agrees that it will not discriminate against any employee or applicant for employment for work under this Agreement because of race, color, religion, sex, age or national origin and will take affirmative steps to insure that applicants are employed and employees are treated during employment without regard to race, color, religion, sex, age or national origin. This provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

Section 9. Effect of Second Amendment on Agreement. Upon approval by all parties, this Second Amendment shall become an integral part of the Agreement itself. All provisions and covenants of the Agreement not expressly amended or superseded by this instrument shall continue in full force and effect for the duration of the Agreement. The term of this Second Amendment shall be the same as that for the Agreement as expressly stated therein. Each party shall attach its copy of this Second Amendment to its copy of the Agreement.

Section 10. Conditions Precedent. The parties hereto each represent to the other that they have done all things necessary as conditions precedent to the execution of this instrument and that the persons whose signatures appear below have the legal authority to execute same on behalf of their respective parties.

IN WITNESS WHEREOF, the parties hereto have caused the Agreement to be executed:

ATTEST:


GABRIELLA COULTER, Secretary

[CORPORATE SEAL]

THE CENTER FOR AFFORDABLE
HOUSING, INC.

By: 
STEPHEN COLD, President

Date: 4.29.09

ATTEST:


JOAN RANDOLPH, Secretary

[CORPORATE SEAL]

HEART TO HEART: A COMMUNITY
CARE HOME, INC. (f/k/a Lisa
Merlin House, Inc.)

By: 
ELLEN T. PARCELL, CEO

Date: 4-13-2009

(SIGNATURES AND ATTESTATION CONTINUED ON FOLLOWING PAGE)

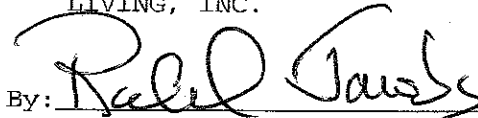
ATTEST:



JOSEPH GOLDSTEIN, Secretary

[CORPORATE SEAL]

THE CENTER FOR DRUG FEE
LIVING, INC.

By: 

RICHARD JACOBS, President

Date: 4.16.09

ATTEST:

BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA

MARYANNE MORSE
Clerk to the Board of
County Commissioners of
Seminole County, Florida.

By: _____
BOB DALLARI, Chairman

Date: _____

For the use and reliance
of Seminole County only.

Approved as to form and
legal sufficiency.

As authorized for execution
by the Board of County Commissioners
at their _____, 20____
regular meeting.



County Attorney

P:\Users\aschneider\Affordable Housing\Lisa Merlin House - 2nd Amend. to Agrmt..doc

This document was prepared by:
Arnold W. Schneider, Esq.
Assistant County Attorney
County Attorney's Office
Seminole County Government
1101 East First Street
Sanford, FL 32771

Please return it to:
Seminole County Community Assistance Division
534 W. Lake Mary Blvd.
Sanford, FL 32773

AGREEMENT FOR ASSUMPTION OF MORTGAGE

THIS AGREEMENT, entered into this ____ day of _____, 2008, by and among **SEMINOLE COUNTY**, a political subdivision of the State of Florida, whose address is 1101 East First Street, Sanford, Florida 32771, hereinafter referred to as "MORTGAGEE", **HEART TO HEART: A COMMUNITY CARE HOME, INC.**, f/k/a Lisa Merlin House, Inc., a non-profit Florida corporation, whose address is 96 Plumosa Avenue, Casselberry, Florida 32707, hereinafter referred to as "MORTGAGOR", and **THE CENTER FOR DRUG FREE LIVING, INC.**, a Florida non-profit corporation, whose address is 3670 Maguire Boulevard, Orlando, Florida 32803, hereinafter called "ASSUMPTION MORTGAGOR".

W I T N E S S E T H:

WHEREAS, **THE CENTER FOR AFFORDABLE HOUSING, INC.**, a non-profit Florida corporation, whose address is 2524 South Park Drive, Sanford, Florida 32773, (the "CENTER") executed and delivered to MORTGAGEE that certain Seminole County SHIP/HOME Program Mortgage Deed and Seminole County Affordable Housing Program Deferred Payment Promissory Note in the amount of FIVE HUNDRED FIFTEEN THOUSAND AND NO/100 DOLLARS (\$515,000.00) which instruments are recorded together in Official

Records Book 5356, Pages 0403 through and including 0409 of the Public Records of Seminole County, Florida and subsequently amended by that corrective Amended Mortgage Deed and Amended Deferred Payment Promissory Note recorded in Official Records Book 5734, Pages 1477 through 1485, inclusive, Public Records of Seminole County, Florida (collectively, the "Mortgage"); and

WHEREAS, the Mortgage was subsequently assumed by MORTGAGOR pursuant to that certain Agreement for Assumption of Mortgage recorded in Official Records Book 6500, Pages 1377 through 1384, inclusive of the Public Records of Seminole County, Florida; and

WHEREAS, the Mortgage creates a first mortgage encumbrance of that certain parcel of real property located at 96 Plumosa Avenue, Casselberry, Florida, the legal description and parcel identification number for which are as follows:



LOT 1, PLAT OF LISA MERLIN HOUSE, INC., ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 68, PAGE 20 OF THE PUBLIC RECORDS OF SEMINOLE COUNTY, FLORIDA.

Parcel Identification NO. 08-21-30-535-0000-0010

(the "Property"); and

WHEREAS, the CENTER, MORTGAGOR and MORTGAGEE heretofore entered into that certain SHIP/HOME Program Community Housing Development Organization Subrecipient Agreement Among Seminole County, The Center for Affordable Housing, Inc. and Lisa Merlin House, Inc. for Program Years 2001-2002, 2003-2004 and 2004-2005, recorded in Official Records Book 5734, Pages 1442-1488, both inclusive of the Public Records of Seminole County, Florida, as amended by that certain First Amendment to said Agreement dated June 28, 2006 (collectively, the "Agreement"), wherein the parties agreed upon the eventual conveyance of title to the

Property and assumption of the Mortgage and Note by MORTGAGOR; and

WHEREAS, MORTGAGOR, MORTGAGEE and ASSUMPTION MORTGAGOR have agreed to allow ASSUMPTION MORTGAGOR to take fee simple title to the Property, to assume MORTGAGOR's obligations under the Mortgage and the Agreement as the best means to assure continued full utilization of the Property for the restricted use purposes specified in said instruments,

NOW, THEREFORE, in consideration of the mutual covenants, promises and representations contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

Section 1. Recitals. The above recitals are true and form a material part of the agreement upon which the parties have relied.

Section 2. Agreement to Assume Mortgage and Note by ASSUMPTION MORTGAGOR. ASSUMPTION MORTGAGOR hereby assumes all rights, duties and obligations and responsibilities for performance of the Mortgage commencing upon the date of execution of this Assumption Agreement, including the following:

(a) Timely making all payments of principal and interest when due as well as penalties, if any; and

(b) Make all payments when due for insurance, taxes and any other payments required by the Mortgage instruments; and

(c) Faithful performance of all other covenants, terms and conditions of the Mortgage and the Agreement as though the ASSUMPTION MORTGAGOR were the original Mortgagor and Maker of said instruments; and

(d) Consideration for the assumption of the Mortgage shall be:
(i) the MORTGAGOR's conveyance of fee simple interest in the Property to ASSUMPTION MORTGAGOR contemporaneously with the execution of this

Assumption Agreement; (ii) MORTGAGEE's approval of the transactions; and (iii) ASSUMPTION MORTGAGOR's agreeing to be subject to MORTGAGEE's continuing enforcement of the Property's use restrictions of record; and

(e) ASSUMPTION MORTGAGOR shall indemnify and hold MORTGAGOR harmless from any and all loss or damage under the Mortgage caused by ASSUMPTION MORTGAGOR's default under said instruments or the Agreement.

Section 3. Warranties and Representations of MORTGAGOR.

(a) The principal amount due under the Mortgage and Note was at the time of origination and does now remain at FIVE HUNDRED FIFTEEN THOUSAND AND NO/100 DOLLARS (\$515,000.00).

(b) MORTGAGOR has not heretofore transferred, assigned or otherwise conveyed its interests under the Mortgage and has done all things necessary as conditions precedent to the assignment of said instruments.



(c) There is not now any default under the Mortgage and promissory note secured thereby. To the best of MORTGAGOR's knowledge, there is not now threatened or pending any action or litigation affecting the Mortgage's legality, the first mortgage priority security interest enjoyed by the MORTGAGEE, or enforceability of the Mortgage, the subject promissory note or any part thereof, alleging any event of default on the part of MORTGAGOR or seeking to accelerate or demand payment under said instruments.

Section 4. Warranties and Representations of MORTGAGEE.

(a) MORTGAGEE has not heretofore assigned, transferred or otherwise conveyed its interest under the Mortgage.

(b) MORTGAGEE hereby agrees and consents to the assignment of the Mortgage and Note by MORTGAGOR to ASSUMPTION MORTGAGOR and the latter's

assumption thereof.

(c) MORTGAGEE shall henceforth look solely to ASSUMPTION MORTGAGOR for performance and required payments under the Mortgage and Note.

(d) MORTGAGEE hereby reaffirms that the covenants relative to deferred payment and forgiveness of the amounts due under the Mortgage and Note and adherence to the Affordability Period requirements provided for therein shall continue in full force and effect with respect to ASSUMPTION MORTGAGOR.

Section 5. Other General Covenants.

(a) ASSUMPTION MORTGAGOR shall have no right to assign the Mortgage and Note to any other party in the absence of the express, written consent of MORTGAGEE, anything else in said instruments or in the Agreement to the contrary notwithstanding.


(b) This Assumption Agreement shall only be amended by a written instrument among the parties hereto and executed with the same formalities as this instrument and recorded in the official land records of Seminole County, Florida.

(c) This instrument constitutes the entire agreement between the parties and supersedes all previous discussions, understandings and agreements between or among the parties relating to the subject matter of this Assumption Agreement.

(d) All parties hereto each represent to the other parties that they have performed all things legally necessary as conditions precedent to entering into this Assumption Agreement and the person whose signatures appear below have the legal authority to execute this instrument on behalf of their respective entities.

IN WITNESS WHEREOF, the parties hereto have caused this instrument
to be executed:

ATTEST:


JOSEPH GOLDSTEIN, Secretary

[CORPORATE SEAL]

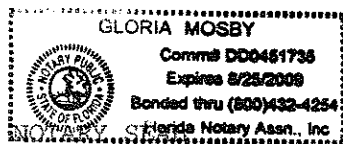
THE CENTER FOR DRUG FREE
LIVING, INC.

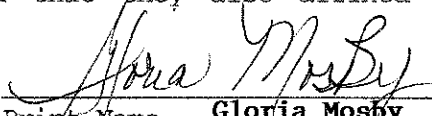
By: 
RICHARD JACOBS, President

Date: 4.16.09

STATE OF FLORIDA]
]
COUNTY OF SEMINOLE]

I HEREBY CERTIFY that, on this 16th day of April, 2009,
before me, an officer duly authorized in the State and County aforesaid
to take acknowledgments, personally appeared RICHARD JACOBS, as
President and JOSEPH GOLDSTEIN, as Secretary of The Center for Drug Free
Living, Inc., a non-profit corporation organized under the laws of the
State of Florida, ☒ who are personally known to me or ☐ who have
produced _____ and _____,
respectively, as identification. They have acknowledged before me that
they executed the foregoing instrument as such officers in, and on
behalf of, the corporation, and that they also affixed thereto the
official seal of the corporation.




Print Name Gloria Mosby
Notary Public in and for the County
and State Aforementioned

My commission expires: 8.25.2009

(SIGNATURES AND ATTESTATION CONTINUED ON FOLLOWING PAGE)

ATTEST:

HEART TO HEART: A COMMUNITY
CARE HOME, INC.

Joan Randolph
JOAN RANDOLPH, Secretary

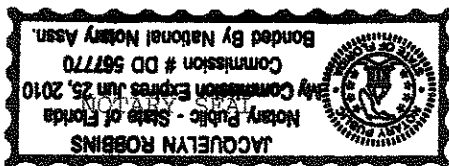
By: Ellen T. Parcel
ELLEN T. PARCELL, Chief
Executive Officer

[CORPORATE SEAL]

Date: 4-13-09

STATE OF FLORIDA]
COUNTY OF SEMINOLE]

I HEREBY CERTIFY that, on this 13 day of April, 2009, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared ELLEN T. PARCELL, as Chief Executive Officer and JOAN RANDOLPH, as Secretary of Heart To Heart: A Community Care Home, Inc., a non-profit corporation organized under the laws of the State of Florida, [] who are personally known to me or [] who have produced RS34-483-51-8740 and PL24-218-48-751-0 respectively, as identification. They have acknowledged before me that they executed the foregoing instrument as such officers in, and on behalf of, the corporation, and that they also affixed thereto the official seal of the corporation.



Jacquelyn Robbins
Print Name Jacquelyn Robbins
Notary Public in and for the County
and State Aforementioned

My commission expires: 6/25/10

ATTEST:

BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA

Maryanne Morse
MARYANNE MORSE
Clerk to the Board of
County Commissioners of
Seminole County, Florida.

By: _____
BOB DALLARI, Chairman

For the use and reliance
of Seminole County only.

Date: _____

Approved as to form and
legal sufficiency.

As authorized for execution
by the Board of County Commissioners
at their _____, 20____
regular meeting.

County Attorney

P:\Users\aschneider\Affordable Housing\Lisa Merlin House-Heart To Heart Assumption of Mortgage
11-6-08.doc